

TITLE XXVIII

NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE

CHAPTER 369

CONSERVATION

PART I CONSERVATION, GENERALLY (s. 369.105)

PART II AQUATIC PLANT CONTROL (ss. 369.20-369.251)

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PART I

CONSERVATION, GENERALLY

369.105 Florida Youth Conservation Corps.

369.105 Florida Youth Conservation Corps.—

(1) **SHORT TITLE.**—This act shall be known and may be cited as the "Florida Youth Conservation Corps Act of 1987."

(2) **INTENT.**—The Legislature finds and declares that young men and women of the state should be given an opportunity to develop meaningful public service work and educational experience through a program that protects and conserves the valuable resources of the state and promotes participation in other community enhancement projects. To this end, it is the intent of the Legislature to create a year-round educational, conservation, and work experience program which will serve to enhance the educational opportunities and employability of eligible youth while benefiting the state's economy and environment.

(3) **DEFINITIONS.**—

(a) "Department" means the Department of Environmental Protection.

(b) "Director" means the state-appointed official who directs the Florida Youth Conservation Corps program.

(c) "Corpsmember" means an individual enrolled in the Florida Youth Conservation Corps.

(d) "Crew leader" means a corpsmember performing additional leadership or training duties as specified by rule.

(e) "Corpsmember specialist" means a corpsmember who provides specialized services other than or in addition to those types of work and services performed by corpsmembers in general.

(f) "Residential center" means a facility designed to be a permanent residence for corpsmembers throughout the duration of their employment in the corps.

(g) "Nonresidential center" means a facility designed to be a satellite operation employing corpsmembers who do not live in a residential center.

(h) "Public agency" means a political subdivision, agency, or officer of this state, including, but not limited to, state government, county, municipality, school district, special district, public authority, independently elected county officer, and any agency of the United States Government.

(4) **CREATION OF THE FLORIDA YOUTH CONSERVATION CORPS.—**

(a) There is hereby created within the department an Office of Civilian Conservation, headed by a director, who shall administer a program to be known as the Florida Youth Conservation Corps. The corps shall be a year-round public service program that provides participants with a work and educational experience. Such experience may include, but is not limited to:

1. Construction of coastal vegetation signs and dune boardwalks.

2. Performance of community field tasks, such as red tide cleanup or clearing land for parks.

3. Forestry work, including reforestation, seed bank work, controlled burning, and fire trail maintenance.

4. Endangered species preservation, including tasks in wildlife habitat improvement.

5. Park and recreation improvement, including construction, installation, and repair of facilities.

6. Trail construction, clearing, or signing.

7. Land reclamation, including public landscape work and a tree planting program.

8. Fisheries work, including tagging projects and data collection.

9. Responding to natural disaster emergencies, such as hurricane preparedness and cleanup, flood work, and forest firefighting.

10. Energy conservation, such as the installation of solar hot water devices in public facilities, the performance of energy audits, and energy conservation improvements in housing of persons of low or moderate income.

11. Marine and shore habitat restoration, such as sea oats, sea grass, and mangrove implanting.

12. Soil conservation projects, including erosion control.

13. Highway and community beautification.

14. Renovation and restoration of housing of low and moderate income persons.

15. Urban revitalization.

16. Historical and cultural site preservation and maintenance.

17. Stream, lake, waterfront, harbor, and port improvement and pollution control.

(b) The Florida Youth Conservation Corps may assist any agency of federal, state, or local government in the performance of public service work.

(c) All agencies of state and local governments are authorized and encouraged to use the services of the Florida Youth Conservation Corps in public service.

(5) APPOINTMENT OF A DIRECTOR; DUTIES AND RESPONSIBILITIES OF THE DEPARTMENT.—

(a) The director of the Office of Civilian Conservation shall be appointed by the secretary of the department.

(b) To implement the provisions of this section, the department shall:

1. Adopt, by rule, criteria for selecting applicants.

2. Recruit and employ staff, corpsmembers, crew leaders, and corpsmember specialists of the Florida Youth Conservation Corps.

3. Execute contracts for employment of members of the corps.

4. Establish residential and nonresidential centers throughout the state to accomplish the missions and objectives of the corps.

5. Establish work programs as specified herein that provide meaningful work and educational experience.

6. Provide, in cooperation with the Department of Education, an educational program, using existing educational resources where feasible, which assures that all corpsmembers, crew leaders, and corpsmember specialists have an opportunity to enhance their basic skills, employability skills, and vocational competence. The program shall include at least the following components:

a. Procedures for the provision of basic skills instruction for corpsmembers, crew leaders, and corpsmember specialists who demonstrate basic skills deficiencies.

b. Procedures for the provision of secondary education courses for high school credit for students studying to receive a high school diploma or its equivalent.

c. Procedures for the award of vocational credit toward the receipt of a certificate career education program certificate for vocational competencies demonstrated by corpsmembers, crew leaders, and corpsmember specialists, during the performance of corps activities.

d. Procedures for the provision of employability-skills training to assist corpsmembers, crew leaders, and corpsmember specialists in finding gainful employment after leaving the corps.

The work of the corps shall be structured to accommodate the educational component without significantly reducing the productivity of the corps.

7. Adopt, by rule, a corpsmember code of conduct, corpsmember grievance procedures, and search and seizure guidelines.

8. Provide basic medical care to those members of the corps housed in a residential center.

9. Report, on or before July 1 of each year, to the Governor and Legislature on the significant activities of the corps in accomplishing its objectives, including the cost-effectiveness of projects completed.

(c) In addition to the duties and powers specified in paragraph (b), the department may:

1. Authorize the use of the corps to respond to emergencies, such as fires, floods, hurricanes, and other natural disasters; to assist in the rescue of lost or injured persons or animals; and to assist with any other emergency response activity or project. Participation in emergency response projects by corpsmembers shall be voluntary.

2. Execute contracts for furnishing the services of the corps to any federal, state, or local public agency or private organization or person.

3. Apply for and accept grants or contributions of funds from any public or private source.

4. Purchase, rent, or otherwise acquire or obtain necessary property, both real and personal, supplies, instruments, tools, equipment, and conveniences.

5. Utilize any service, material, or property of any agency of the state and make such agreements with any agency of the state as are deemed reasonable and necessary.

6. Require reimbursement by the Federal Government, any state or local public agency, or any private organization or person for actual expenses incurred by the corps for any project undertaken, including a proportionate share of the cost of administering the program.

7. Contract with public or private not-for-profit agencies to administer residential or nonresidential programs. The public or private not-for-profit agency shall submit a proposal as specified by rule which demonstrates that its program is consistent with this act.

(6) MEMBERSHIP; DUTIES.—

(a) All persons between the ages of 16 and 20 years, inclusive, who are citizens or lawful permanent residents of the United States and residents of this state and who have not been convicted of a felony as defined in s. 775.08 shall be eligible to apply for membership in the Florida Youth Conservation Corps.

(b) Membership in the Florida Youth Conservation Corps shall consist of three classes: Corpsmember, crew leader, and corpsmember specialist.

1. Corpsmembers shall agree to serve in the corps for not less than 3 months and may serve as a corpsmember for a period not to exceed 1 year. Crew leaders and corpsmember specialists may remain a member of the corps for a period not to exceed 2 years.

2. Corpsmembers, crew leaders, and corpsmember specialists shall not be considered employees of the state.

3. Corpsmembers, crew leaders, and corpsmember specialists may perform any of the work experiences set forth in subsection (4). Additionally, activities of corpsmembers, crew leaders, and corpsmember specialists may include education, training, and work to achieve and sustain self-sufficiency, which may include attendance at classes, maintenance of corps residential centers, and performance of horticultural work.

(7) **YOUTH CONSERVATION CORPS TRUST FUND.** All grants, contributions, reimbursements, and other moneys collected as authorized in this section that would otherwise be deposited in the general revenue accounts of the State Treasury shall be deposited in the Youth Conservation Corps Trust Fund, which is created in the department, and shall remain in such account until expended by the department for the purposes of this section.

(8) **RULES FOR EXPENDITURES OF TRUST FUND MONEYS.**—The department shall promulgate rules for the expenditures of the moneys deposited in the Youth Conservation Corps Trust Fund.

(9) **RULES.**—The department is authorized to promulgate such rules as are necessary to carry out the provisions of this section.

History.—s. 1, ch. 87-272; s. 1, ch. 89-373; s. 186, ch. 94-356.
Note.—The term "certificate career education" was substituted for the term "postsecondary adult vocational" by the editors pursuant to the directive of the Legislature in s. 16, ch. 94-232.

PART II

AQUATIC PLANT CONTROL

- 369.20 Florida Aquatic Weed Control Act.
 369.22 Nonindigenous aquatic plant control.
 369.25 Aquatic plants; definitions; permits; powers of department; penalties.
 369.251 Invasive nonnative plants; prohibitions; study; removal; rules.

369.20 Florida Aquatic Weed Control Act.—

(1) This act shall be known as the "Florida Aquatic Weed Control Act."

(2) The Department of Environmental Protection shall direct the control, eradication, and regulation of noxious aquatic weeds and direct the research and planning related to these activities, as provided in this section, excluding the authority to use fish as a biological control agent, so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant and animal life and property.

(3) It shall be the duty of the department to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to the Game and Fresh Water Fish Commission.

(4) The department shall also promote, develop, and support research activities directed toward the more effective and efficient control of aquatic plants. In the furtherance of this purpose, the department is authorized:

- (a) Accept donations and grants of funds and services from both public and private sources;
- (b) Contract or enter into agreements with public or private agencies or corporations for research and development of aquatic plant control methods or for the performance of aquatic plant control activities;
- (c) Construct, acquire, operate, and maintain facilities and equipment; and
- (d) Enter upon, or authorize the entry upon, private property for purposes of making surveys and examinations and to engage in aquatic plant control activities; and such entry shall not be deemed a trespass.

(5) The Department of Environmental Protection may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants, upon:

- (a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;
- (b) Approval by the department of the control techniques to be used by the district or authority; and
- (c) Review and approval of the program of the district or authority by the department to be in conformance with the state control plan.

(6) The department shall adopt, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

(7) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic weeds or plants in waters of the state unless a permit for such activity has been issued by the department, or unless the activity is in waters expressly exempted by department rule. The department shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities shall be made to the department. In reviewing such applications, the department shall consider the criteria set forth in subsection (2).

History.—ss. 1, 2, ch. 70-203; s. 3, ch. 80-129; s. 32, ch. 85-81; s. 1, ch. 89-151; s. 187, ch. 94-356.

Note.—Former s. 372.925.

369.22 Nonindigenous aquatic plant control.—

(1) This section shall be known as the "Florida Nonindigenous Aquatic Plant Control Act."

(2) For the purpose of this section, the following words and phrases shall have the following meanings:

- (a) "Department" means the Department of Environmental Protection.
- (b) "Aquatic plant" is any plant growing in, or closely associated with, the aquatic environment and includes "floating," "emersed," "submersed," and "ditch bank" species.

(c) "Nonindigenous aquatic plant" is any aquatic plant that is nonnative to the State of Florida and has certain characteristics, such as massive productivity, choking density, or an obstructive nature, which render it detrimental, obnoxious, or unwanted in a particular location.

(d) A "maintenance program" is a method for the control of nonindigenous aquatic plants in which control techniques are utilized in a coordinated manner on a continuous basis in order to maintain the plant population at the lowest feasible level as determined by the department.

(e) An "eradication program" is a method for the control of nonindigenous aquatic plants in which control techniques are utilized in a coordinated manner in an

attempt to kill all the aquatic plants on a permanent basis in a given geographical area.

(f) A "complaint spray program" is a method for the control of nonindigenous aquatic plants in which weeds are allowed to grow unhindered to a given level of undesirability, at which point eradication techniques are applied in an effort to restore the area in question to a relatively low level of infestation.

(g) "Waters" means rivers, streams, lakes, navigable waters and associated tributaries, canals, meandered lakes, enclosed water systems, and any other bodies of water.

(h) "Intercounty waters" means any waters which lie in more than one county or form any part of the boundary between two or more counties, as determined by the department.

(i) "Intracounty waters" means any waters which lie wholly within the boundaries of one county as determined by the department.

(j) "Districts" means the six water management districts created by law and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, the Central and Southern Florida Flood Control District, and the Ridge and Lower Gulf Coast Water Management District; and on July 1, 1975, shall mean the five water management districts created by chapter 73-190, Laws of Florida, and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.

(3) The Legislature recognizes that the uncontrolled growth of nonindigenous aquatic plants in the waters of Florida poses a variety of environmental, health, safety, and economic problems. The Legislature acknowledges the responsibility of the state to cope with the uncontrolled and seemingly never-ending growth of nonindigenous aquatic plants in the waters throughout Florida. It is, therefore, the intent of the Legislature that the state policy for the control of nonindigenous aquatic plants in waters of state responsibility be carried out under the general supervision and control of the department, and that the state itself be responsible for the control of such plants in all intercounty waters; but that control of such plants in intracounty waters be the designated responsibility of the appropriate unit of local or county government, special district, authority, or other public body. It is the intent of the Legislature that the control of nonindigenous aquatic plants be carried out primarily by means of maintenance programs, rather than eradication or complaint spray programs, for the purpose of achieving more effective control at a lower long-range cost. It is also the intent of the Legislature that the department guide, review, approve, and coordinate all nonindigenous aquatic plant control programs within each of the water management districts as defined in paragraph (2)(j). It is the intent of the Legislature to account for the costs of nonindigenous aquatic plant maintenance programs by watershed for comparison management purposes.

(4) The department shall supervise and direct all maintenance programs for control of nonindigenous aquatic plants, as provided in this section, excluding the authority to use fish as a biological control agent, so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant, fish, and animal life and to property.

(5) When state funds are involved, or when waters of state responsibility are involved, it is the duty of the department to guide, review, approve, and coordinate the activities of all public bodies, authorities, state agencies, units of local or county government, commissions, districts, and special districts engaged in operations to maintain, control, or eradicate nonindigenous aquatic plants, except for activities involving biological control programs using fish as the control agent. The department may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body. However, special attention shall be given to the keeping of accounting and cost data in order to prepare the annual fiscal report required in subsection (7).

(6) The department may disburse funds to any district, special district, or other local authority for the purpose of operating a maintenance program for controlling nonindigenous aquatic plants and other noxious aquatic plants in the waters of state responsibility upon:

(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;

(b) Approval by the department of the maintenance control techniques to be used by the district or authority; and

(c) Review and approval of the program of the district or authority by the department to be in conformance with the state maintenance control plan.

(7) The department shall submit an annual report on the status of the nonindigenous aquatic plant maintenance program to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet by January 1 of the following year. This report shall include a statement of the degree of maintenance control achieved by individual nonindigenous aquatic plant species in the intercounty waters of each of the water management districts for the preceding county fiscal year, together with an analysis of the costs of achieving this degree of control. This cost accounting shall include the expenditures by all governmental agencies in the waters of state responsibility. If the level of maintenance control achieved falls short of that which is deemed adequate by the department, then the report shall include an estimate of the additional funding that would have been required to achieve this level of maintenance control. All measures of maintenance program achievement and the related cost shall be presented by water management districts so that comparisons may be made among the water management districts, as well as with the state as a whole.

(8) The department shall have the authority to cooperate with the United States and to enter into such cooperative agreements or commitments as the department may determine necessary to carry out the maintenance,

control, or eradication of water hyacinths, alligator weed, and other noxious aquatic plant growths from the waters of the state and to enter into contracts with the United States obligating the state to indemnify and save harmless the United States from any and all claims and liability arising out of the initiation and prosecution of any project undertaken under this section. However, any claim or claims required to be paid under this section shall be paid from money appropriated to the nonindigenous aquatic plant control program.

(9) The department may delegate various nonindigenous aquatic plant control and maintenance functions to the Game and Fresh Water Fish Commission. The commission shall, in accepting commitments to engage in nonindigenous aquatic plant control and maintenance activities, be subject to the rules of the department, except that the commission shall regulate, control, and coordinate the use of any fish for aquatic weed control in fresh waters of the state. In addition, the commission shall render technical and other assistance to the department in order to carry out most effectively the purposes of s. 369.20. However, nothing herein shall diminish or impair the regulatory authority of the commission with respect to the powers granted to it by s. 9, Art. IV of the State Constitution.

(10) The department is directed to use biological agents, excluding fish, for the control of nonindigenous aquatic plants.

(11) The department shall adopt, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

(12) No person or public agency shall control, eradicate, remove, or otherwise alter any nonindigenous aquatic plants in waters of the state unless a permit for such activity has been issued by the department, or unless the activity is in waters expressly exempted by department rule. The department shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities shall be made to the department. In reviewing such applications, the department shall consider the criteria set forth in subsection (4).

History.—ss. 1, 2, ch. 74-65; s. 4, ch. 80-129; s. 33, ch. 83-218; s. 16, ch. 84-254; s. 2, ch. 89-151; s. 188, ch. 94-356.

Note.—Former s. 372.932.

1369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(1) As used in this section, the term:

(a) "Aquatic plant" means any plant, including a floating, emersed, submersed, or ditch bank species, growing in, or closely associated with, an aquatic environment and includes any part or seed of such plant.

(b) "Department" means the Department of Environmental Protection.

(c) "Nonnursery cultivation" means the tending of aquatic plant species for harvest in the natural environment.

(d) "Noxious aquatic plant" means any part, including, but not limited to, seeds or reproductive parts, of an aquatic plant which has the potential to hinder the growth of beneficial plants, interfere with irrigation or navigation, or adversely affect the public welfare or the natural resources of this state.

(e) "Person" includes a natural person, a public or private corporation, a governmental entity, or any other kind of entity.

(2) No person shall engage in any business involving the importation, transportation, nonnursery cultivation, collection, sale, or possession of any aquatic plant species without a permit issued by the department or the Department of Agriculture and Consumer Services. No person shall import, transport, nonnursery cultivate, collect, sell, or possess any noxious aquatic plant listed on the prohibited aquatic plant list established by the department without a permit issued by the department or the Department of Agriculture and Consumer Services. No permit shall be issued until the department determines that the proposed activity poses no threat or danger to the waters, wildlife, natural resources, or environment of the state.

(3) The department has the following powers:

(a) To make such rules governing the importation, transportation, nonnursery cultivation, collection, and possession of aquatic plants as may be necessary for the eradication, control, or prevention of the dissemination of noxious aquatic plants that are not inconsistent with rules of the Department of Agriculture and Consumer Services.

(b) To establish by rule lists of aquatic plant species regulated under this section, including those exempted from such regulation, provided the Department of Agriculture and Consumer Services and the Game and Fresh Water Fish Commission approve such lists prior to the lists becoming effective.

(c) To evaluate an aquatic plant species through research or other means to determine whether such species poses a threat or danger to the waters, wildlife, natural resources, or environment of the state.

(d) To declare a quarantine against aquatic plants, including the vats, pools, or other containers or bodies of water in which such plants are growing, except in aquatic plant nurseries, to prevent the dissemination of any noxious aquatic plant.

(e) To make rules governing the application for, issuance of, suspension of, and revocation of permits under this section.

(f) To enter into cooperative agreements with any person as necessary or desirable to carry out and enforce the provisions of this section.

(g) To purchase all necessary supplies, material, and equipment and accept all grants and donations useful in the implementation and enforcement of the provisions of this section.

(h) To enter upon and inspect any facility or place, except aquatic plant nurseries regulated by the Department of Agriculture and Consumer Services, where aquatic plants are cultivated, held, packaged, shipped,

stored, or sold, or any vehicle of conveyance of aquatic plants, to ascertain whether the provisions of this section and department regulations are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department regulations.

(i) To conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.

(4) The department shall adopt rules which limit the sanctions available for violations under this act to quarantine and confiscation:

(a) If the prohibited activity apparently results from natural dispersion; or

(b) If a small amount of noxious aquatic plant material incidentally adheres to a boat or boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act.

(5)(a) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All law enforcement officers of the state and its agencies with power to make arrests for violations of state law shall enforce the provisions of this section.

History.—s. 1, ch. 69-158; ss. 14, 26, 35, ch. 69-106; s. 4, ch. 70-203; s. 1, ch. 70-439; s. 350, ch. 71-136; s. 2, ch. 71-137; s. 140, ch. 77-104; s. 1, ch. 77-174; s. 23, ch. 78-95; s. 1, ch. 84-120; s. 1, ch. 92-147; s. 189, ch. 94-356.

Note.—Section 9, ch. 92-147, provides that:

(1) The administrative rules of the agencies involved in the reorganization of ss. 369.25, 581.011, 581.031, and 581.211, Florida Statutes, relating to aquatic plant regulation, that are in effect immediately prior to [July 1, 1992] shall remain in effect until specifically changed in the manner provided by law.

(2) This act shall not affect the validity of any judicial or administrative proceeding relating to aquatic plant regulation under ss. 369.25, 581.011, 581.031, and 581.211, Florida Statutes, pending on [July 1, 1992], and any agency to which are transferred the powers, duties, and functions relating to the pending proceeding shall be substituted as a party in interest for that proceeding."

Note.—Former s. 403.271.

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(1) A person may not sell, transport, collect, cultivate, or possess any plant, including any part or seed, of the species *Melaleuca quinquenervia*, *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*, or *Mimosa pigra* without a permit from the department. Any person who violates this section commits a misdemeanor of the second degree, punishable by fine only, as provided in s. 775.083.

(2) The department shall study methods of control of plants of the species *Melaleuca quinquenervia*, *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*, and *Mimosa pigra*. The South Florida Water Management District shall undertake programs to remove such plants from conservation area I, conservation area II, and conservation area III of the district.

(3) The department shall adopt rules necessary to implement this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent

to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

History.—s. 1, ch. 90-313; s. 190, ch. 94-356.

PART III

WEKIVA RIVER PROTECTION

- 369.301 Short title.
 369.303 Definitions.
 369.305 Review of local comprehensive plans, land development regulations, Wekiva River development permits, and amendments.
 369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.
 369.309 Airboats prohibited; exceptions; penalties.
 369.311 Policy.
 369.313 Pilot project design and implementation; restoration and protection activities; intergovernmental coordination.

369.301 Short title.—This part may be cited as the "Wekiva River Protection Act."

History.—s. 1, ch. 88-121; s. 26, ch. 88-393.

369.303 Definitions.—As used in this part:

(1) "Council" means the East Central Florida Regional Planning Council.

(2) "Counties" means Orange, Seminole, and Lake Counties.

(3) "Department" means the Department of Community Affairs.

(4) "Development of regional impact" means a development which is subject to the review procedures established by s. 380.06 or s. 380.065, and s. 380.07.

(5) "Land development regulation" means a regulation covered by the definition in s. 163.3164(23) and any of the types of regulations described in s. 163.3202.

(6) "Local comprehensive plan" means a comprehensive plan adopted pursuant to ss. 163.3164-163.3215.

(7) "Revised comprehensive plan" means a comprehensive plan prepared pursuant to ss. 163.3164-163.3215 which has been revised pursuant to chapters 85-55, 86-191, and 87-338, Laws of Florida, and subsequent laws amending said sections.

(8) "Wekiva River development permit" means any zoning permit, subdivision approval, rezoning, special exception, variance, site plan approval, or other official action of local government having the effect of permitting the development of land in the Wekiva River Protection Area. "Wekiva River development permit" shall not include a building permit, certificate of occupancy, or other permit relating to the compliance of a development with applicable electrical, plumbing, or other building codes.

(9) "Wekiva River Protection Area" means the lands within: Township 18 south range 28 east; Township 18 south range 29 east; Township 19 south range 28 east, less those lands lying west of a line formed by County Road 437, State Road 46, and County Road 435; Township 19 south range 29 east; Township 20 south range

28 east, less all lands lying west of County Road 435; and Township 20 south range 29 east, less all those lands east of Markham Woods Road.

(10) "Wekiva River System" means the Wekiva River, the Little Wekiva River, Black Water Creek, Rock Springs Run, Sulphur Run, and Seminole Creek.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 46, ch. 91-221; s. 4, ch. 93-206.

369.305 Review of local comprehensive plans, land development regulations, Wekiva River development permits, and amendments.—

(1) It is the intent of the Legislature that comprehensive plans and land development regulations of Orange, Lake, and Seminole Counties be revised to protect the Wekiva River Protection Area prior to the due dates established in ss. 163.3167(2) and 163.3202 and chapter 9J-12, Florida Administrative Code. It is also the intent of the Legislature that the counties emphasize this important state resource in their planning and regulation efforts. Therefore, each county shall, by April 1, 1989, review and amend those portions of its local comprehensive plan and its land development regulations applicable to the Wekiva River Protection Area, and, if necessary, adopt additional land development regulations which are applicable to the Wekiva River Protection Area to meet the following criteria:

(a) Each county's local comprehensive plan shall contain goals, policies, and objectives which result in the protection of the:

1. Water quantity, water quality, and hydrology of the Wekiva River System;
2. Wetlands associated with the Wekiva River System;
3. Aquatic and wetland-dependent wildlife species associated with the Wekiva River System;
4. Habitat within the Wekiva River Protection Area of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code; and
5. Native vegetation within the Wekiva River Protection Area.

(b) The various land uses and densities and intensities of development permitted by the local comprehensive plan shall protect the resources enumerated in paragraph (a) and the rural character of the Wekiva River Protection Area. The plan shall also include:

1. Provisions to ensure the preservation of sufficient habitat for feeding, nesting, roosting, and resting so as to maintain viable populations of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code, within the Wekiva River Protection Area.
2. Restrictions on the clearing of native vegetation within the 100-year flood plain.
3. Prohibition of development that is not low-density residential in nature, unless that development has less impacts on natural resources than low-density residential development.
4. Provisions for setbacks along the Wekiva River for areas that do not fall within the protection zones established pursuant to s. 373.415.
5. Restrictions on intensity of development adjacent to publicly owned lands to prevent adverse impacts to such lands.

6. Restrictions on filling and alteration of wetlands in the Wekiva River Protection Area.

7. Provisions encouraging clustering of residential development when it promotes protection of environmentally sensitive areas, and ensuring that residential development in the aggregate shall be of a rural density and character.

(c) The local comprehensive plan shall require that the density or intensity of development permitted on parcels of property adjacent to the Wekiva River System be concentrated on those portions of the parcels which are the farthest from the surface waters and wetlands of the Wekiva River System.

(d) The local comprehensive plan shall require that parcels of land adjacent to the surface waters and watercourses of the Wekiva River System not be subdivided so as to interfere with the implementation of protection zones as established pursuant to s. 373.415, any applicable setbacks from the surface waters in the Wekiva River System which are established by local governments, or the policy established in paragraph (c) of concentrating development in the Wekiva River Protection Area as far from the surface waters and wetlands of the Wekiva River System as practicable.

(e) The local land development regulations shall implement the provisions of paragraphs (a), (b), (c), and (d) and shall also include restrictions on the location of septic tanks and drainfields in the 100-year flood plain and discharges of stormwater to the Wekiva River System.

(2) Each county shall, within 10 days of adopting any necessary amendments to its local comprehensive plan and land development regulations or new land development regulations pursuant to subsection (1), submit them to the department, which shall, within 90 days, review the amendments and any new land development regulations and make a determination.

(3) If the department determines that the local comprehensive plan and land development regulations as amended or supplemented comply with the provisions of subsection (1), the department shall petition the Governor and Cabinet to confirm its determination. If the department determines that the amendments and any new land development regulations that a county has adopted do not meet the criteria established in subsection (1), or the department receives no amendments or new land development regulations and determines that the county's existing local comprehensive plan and land development regulations do not comply with the provisions of subsection (1), the department shall petition the Governor and Cabinet to order the county to adopt such amendments to its local comprehensive plan or land development regulations or such new land development regulations as it deems necessary to meet the criteria in subsection (1). A determination or petition made by the department pursuant to this subsection shall not be final agency action.

(4) The Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission, shall render an order on the petition. Any local government comprehensive plan amendments directly related to the requirements of this subsection and subsections (1), (2), and (3) may be initiated by a local planning agency and con-

sidered by the local governing body without regard to statutory or local ordinance limitations on the frequency of consideration of amendments to local comprehensive plans.

(5) During the period of time between the effective date of this act and the due date of a county's revised local government comprehensive plan as established by s. 163.3167(2) and chapter 9J-12, Florida Administrative Code, any local comprehensive plan amendment or amendment to a land development regulation, adopted or issued by a county, which applies to the Wekiva River Protection Area, or any Wekiva River development permit adopted by a county, solely within protection zones established pursuant to s. 373.415, shall be sent to the department within 10 days after its adoption or issuance by the local governing body but shall not become effective until certified by the department as being in compliance with purposes described in subsection (1). The department shall make its decision on certification within 60 days after receipt of the amendment or development permit solely within protection zones established pursuant to s. 373.415. The department's decision on certification shall be final agency action. This subsection shall not apply to any amendments or new land development regulations adopted pursuant to subsections (1) through (4) or to any development order approving, approving with conditions, or denying a development of regional impact.

(6) In its review of revised comprehensive plans after the due dates described in subsection (5), and in its review of comprehensive plan amendments after those due dates, the department shall review the local comprehensive plans, and any amendments, which are applicable to portions of the Wekiva River Protection Area for compliance with the provisions of subsection (1) in addition to its review of local comprehensive plans and amendments for compliance as defined in s. 163.3184; and all the procedures and penalties described in s. 163.3184 shall be applicable to this review.

(7) The department may adopt reasonable rules and orders to implement the provisions of this section.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 14, ch. 95-146.

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.—

(1) Notwithstanding the provisions of s. 380.06(15), the counties shall consider and issue the development permits applicable to a proposed development of regional impact which is located partially or wholly within the Wekiva River Protection Area at the same time as the development order approving, approving with conditions, or denying a development of regional impact.

(2) Notwithstanding the provisions of s. 380.0651 or any other provisions of chapter 380, the numerical standards and guidelines provided in chapter 28-24, Florida Administrative Code, shall be reduced by 50 percent as applied to proposed developments entirely or partially located within the Wekiva River Protection Area.

(3) The Wekiva River Protection Area is hereby declared to be a natural resource of state and regional importance. The East Central Florida Regional Planning Council shall adopt policies as part of its strategic

regional policy plan and regional issues list which will protect the water quantity, water quality, hydrology, wetlands, aquatic and wetland-dependent wildlife species, habitat of species designated pursuant to rules 39-27.003, 39-27.004, and 39-27.005, Florida Administrative Code, and native vegetation in the Wekiva River Protection Area. The council shall also cooperate with the department in the department's implementation of the provisions of s. 369.305.

(4) The provisions of s. 369.305 of this act shall be inapplicable to developments of regional impact in the Wekiva River Protection Area if an application for development approval was filed prior to June 1, 1988, and in the event that a development order is issued pursuant to such application on or before April 1, 1989.

(5) The Department of Environmental Protection is directed to proceed to negotiate for acquisition of conservation and recreation lands projects within the Wekiva River Protection Area provided that such projects have been deemed qualified under statutory and rule criteria for purchase and have been placed on the priority list for acquisition by the advisory council created in s. 259.035.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 14, ch. 89-116; s. 191, ch. 94-356; s. 10, ch. 95-149.

369.309 Airboats prohibited; exceptions; penalties.—

(1) The operation of an airboat on the Wekiva River System shall be prohibited. For the purposes of this section, an airboat is any boat, sled, skiff, or swamp vessel that is pushed, pulled, or propelled by air power generated by a nondetachable motor of more than 10 horsepower.

(2) The provisions of this section shall not apply in the case of an emergency or to any employee of a municipal, county, state, or federal agency or their agents on official government business.

(3) Persons convicted for violation of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 90-81.

1369.311 Policy.—The Legislature reaffirms the policy of the state as set forth in this part, with regard to the protection of the Wekiva River System, including, but not limited to, its tributaries. The Little Wekiva River, as a major tributary of the Wekiva River, plays an important role with regard to the protection and water quality of the Wekiva River. Accordingly, it is appropriate to take timely and prudent actions to protect, preserve, and restore the water quality and environmental integrity of the Little Wekiva River.

History.—ss. 1, 4, ch. 95-315.

Note.—Repealed effective July 1, 1999, by s. 4, ch. 95-315, unless reenacted by the Legislature prior to that date.

1369.313 Pilot project design and implementation; restoration and protection activities; intergovernmental coordination.—

(1) The St. Johns River Water Management District is authorized to make expenditures from matching funds provided by Orange and Seminole Counties, for the purposes of designing and implementing pilot projects to restore, protect, and preserve the ecological integrity of

the Little Wekiva River in Seminole and Orange Counties, including:

(a) Pilot projects for erosion control in areas where erosion is causing, or is likely to lead to, adverse environmental impacts; and

(b) Pilot projects for restoration of areas where sedimentation is causing, or is likely to lead to, adverse environmental impacts, including, but not limited to, loss of formerly existing channels or flooding.

(2) The St. Johns River Water Management District, in carrying out its duties and responsibilities under this act, is authorized to request assistance from any department, office, division, agency, or political subdivision or municipality of the state to supply it with technical assistance, available data, reports, or other information that it deems necessary. Each department, office, division, agency, municipality, and political subdivision is encouraged, to the extent feasible and consistent with law, to cooperate with the district and furnish it with the available information, personnel, and assistance to

accomplish the purposes of this act. To the maximum extent feasible, the participation of all organizations, agencies, and jurisdictions that are involved with or affected by the water quality and environmental protection of the Wekiva River is required.

(3) The St. Johns River Water Management District shall, on or before 24 months from July 1, 1995, report directly to the Speaker of the House of Representatives and the President of the Senate with regard to the actions taken pursuant to this act and the effectiveness of those actions in protecting, preserving, and restoring the Little Wekiva River. Copies of the report shall be provided to the Department of Environmental Protection, the Florida Game and Fresh Water Fish Commission, and the St. Johns River Water Management District. The district shall make recommendations and proposals in the report regarding further actions recommended to accomplish the purposes of this act.

History.—ss. 2, 4, ch. 95-315.

Note.—Repealed effective July 1, 1999, by s. 4, ch. 95-315, unless reenacted by the Legislature prior to that date.